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EXAMINER				
RASHID, DAVID				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,872

Applicant(s)

ARAKAWA, KENJI

Examiner

DAVID P. RASHID

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

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Prior Art

U.S. Pub. No. 2004/0174443 (filed Mar. 7, 2003, hereinafter "Simske")	6
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General Information Matter

[1] Please note, the instant Non-Provisional application (10/582872) under prosecution at the United States Patent and Trademark Office (USPTO), has been assigned to Art Unit 2624.

Please ensure, to aid in correlating any papers for 10/582872, all further correspondence regarding the instant application should be directed to Art Unit 2624.

[2] 10/582872 has been assigned to David Rashid (Examiner) in the Art Unit 2624 at the USPTO. To aid in correlating any papers for 10/582872, all further correspondence regarding the instant application should be directed to David Rashid in Art Unit 2624.

Amendments & Claim Status

[3] This office action is responsive to Preliminary Amendment received Jun. 14, 2006. Claims 1-24 remain pending.

Priority

[4] Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d) (JP App. No. 2003-420973, filed Jun. 14, 2006), which papers have been placed of record in the file.

Information Disclosure Statement

[5] The information disclosure statement filed Jun. 14, 2006 complies with the provisions of 37 C.F.R. § 1.97, 1.98 and M.P.E.P. § 609. It has been placed in the application file, and the information referred to therein has been considered as to the merits.

Specification

Title Not Descriptive

[6] The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

[7] Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

M.P.E.P. § 608.01(b)(C) (emphasis added).

Abstract - Proper Language

The abstract is objected to for using "means" phraseology.

Drawings

- [8] The following is a quote from 37 C.F.R. § 1.84(h):

All views of the drawing must be grouped together and arranged on the sheet(s) without wasting space, preferably in an upright position, clearly separated from one another, and must not be included in the sheets containing the specifications, claims, or abstract.

Drawings to be Grouped Together

The drawings are objected to under 37 C.F.R. § 1.84(h) for failing to be “grouped together and arranged on the sheet(s) without wasting space”. See e.g., fig. 11 and fig. 13.

Claim Objections

Acronyms

- [9] Claims 6-12 and 18-24 are objected to because of the following informalities: Claim 6 and claim 18 contain acronyms that should be spelled out before placing the acronym in parentheses (e.g., “a CRT or a PDP” should be “a cathode ray tube (CRT) CRT or a plasma display panel (PDP) ~~PDP~~”). Claims 7-12 and 19-24 objected by dependency. Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112

- [10] The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Failure to Particularly Point Out and Distinctly Claim

- [11] **Claims 1-24** are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(i) Claim 7, line 11 contains “outputting it” but it is unclear what “it” in fact is (i.e., just the “at least one of a numeral, character, icon, or symbol” or the entire “result of the comparison” which may contain more data than “at least one of a numeral, character, icon, or symbol”). Claims 8 and 19-20 rejected by analogy. Claims 9-12 and 21-24 rejected by dependency.

(ii) Claim 1, line 5 (emphasis added) cites “image data having positions information, the position information,” that appears to be incomplete. Claim 13 rejected by analogy. Claims 2-12 and 14-24 rejected by dependency.

Lack of Antecedent Basis

Claims 10 and 22 recite the limitations “the switching means”. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 U.S.C. § 101

[12] 35 U.S.C. § 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

In Re Bilski – “Tied To” Criteria and/or Qualifying “Transformation”

[13] **Claims 13-17** are rejected under 35 U.S.C. § 101 as not falling within one of the four statutory categories of invention. Supreme Court precedent¹ and recent Federal Circuit decisions² indicate that a statutory “process” under 35 U.S.C. § 101 must (1) be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing. While the instant claim(s) recite a series of steps or acts to be performed, the claim(s) neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

With regard to (1) above, a process must have either a meaningful tie to an “apparatus”, or “machine”, or the process must perform a qualifying transformation. Insignificant pre- or post-solution activity involving an “apparatus” or “machine” is not a meaningful tie. For example, claim 13 cites “outputting reproduction data” which does not involve a machine (pre- or post-processing, or intended use statements are not significant to the inventive concept). In

¹ *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).

² *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008).

addition, when such machine is introduced and significant to the inventive concept, it must be a particular machine (e.g., a “processor”, not a “machine”).

With regard to (2) above, the image data in claim 13 does not represent a physical object that has been transformed prior to.

Claims 14-17 are rejected for failing to alleviate the rejection of their respective dependents.

Claim Rejections - 35 U.S.C. § 102

[14] The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Simske

[15] **Claims 1-7, 10, 13-19, and 22** are rejected under 35 U.S.C. § 102(e) as being anticipated by Simske.

Regarding **claim 1**, Simske discloses an image processing device (“computer-readable medium” at ¶0008) having image reproduction means (“computer program logic” at ¶0008) for reproducing image data (fig. 1, items 105-107) and outputting reproduction data (fig. 1, items 112, 115), the image processing device comprising:

position information extraction means (“computer program logic” at ¶0008) for extracting, from image data having position information (fig. 1, item 109; ¶0022), the position information;

position information storage means (“computer program logic” at ¶0008) for storing the position information (fig. 1, item 109; ¶0022) extracted by the position information extraction means;

position information comparison means (“computer program logic” at ¶0008) for comparing the position information (fig. 1, item 109; ¶0022) stored in the position information storage means with comparison reference (“pre-existing list of waypoints” at ¶0025);

comparison reference setting means (“computer program logic” at ¶0008) for setting (fig. 1, item 110) the comparison reference (“pre-existing list of waypoints” at ¶0025; also fig. 1, item 114) in the position information comparison means (“computer program logic” at ¶0008); and

reproduction control means (“computer program logic” at ¶0008) for controlling the image reproduction means so as to reproduce image data (fig. 1, items 112, 115) corresponding to the position information in accordance with a result of the comparison by the position information comparison means.

Regarding **claim 2**, Simske discloses wherein the comparison reference is a distance from a location (“which waypoint or group of waypoints is nearest to the GPS data” and equation at ¶0025; “nearest images” and equation at ¶0033) represented by a latitude and longitude (¶0026; ¶0034) of the position information.

Regarding **claim 3**, Simske discloses wherein the comparison reference is a distance from a location (“which waypoint or group of waypoints is nearest to the GPS data” and equation at ¶0025; “nearest images” and equation at ¶0033) represented by a latitude, longitude and altitude (¶0026; ¶0034) of the position information.

Regarding **claim 4**, Simske discloses wherein the comparison reference includes information on a direction (“camera angle” at ¶0037) in which the image data is taken.

Regarding **claim 5**, Simske discloses wherein the comparison reference includes information having a predetermined angle (“camera angle” at ¶0037) with respect to a direction in which the image data is taken.

Regarding **claim 6**, Simske discloses further comprising display means (fig. 4, item 415 implicitly depicts either a liquid crystal monitor, CRT, or PDP), including a liquid crystal monitor, a CRT or a PDP, for displaying the reproduction data outputted from the image reproduction means (¶0043).

Regarding **claim 7**, Simske discloses further comprising superimposition means (“computer program logic” at ¶0008) for superimposing a result of the comparison outputted from the position information comparison means on the reproduction data as at least one of a numeral, a character, an icon and a symbol (“e.g., thumbnails, directory with thumbnail of highlighted image; a tree of the images, etc.” at ¶0037) and outputting it to the display means.

Regarding **claim 10**, Simske discloses wherein when the reproduction data is switched by the switching means (“computer program logic” at ¶0008), the image reproduction means simultaneously reproduces at least two pieces (“415 enables a user to view images” at ¶0043 suggests at least two pieces displayed) of reproduction data (fig. 1, items 112, 115) corresponding to the result of the comparison (e.g., “users may search the database for images by entering a waypoint location as a search criteria” at ¶0014), and causes the display means (fig. 4, item 415) to simultaneously display the at least two pieces of reproduction data (¶0043; fig. 4, item 415 implicitly depicts the simultaneously display of at least two pieces of reproduction data).

Regarding **claim 13**, claim 1 cites identical features as in claim 13. Thus, references/arguments equivalent to those presented above for claim 1 are equally applicable to claim 13.

Regarding **claim 14**, claim 2 cites identical features as in claim 14. Thus, references/arguments equivalent to those presented above for claim 2 are equally applicable to claim 14.

Regarding **claim 15**, claim 3 cites identical features as in claim 15. Thus, references/arguments equivalent to those presented above for claim 3 are equally applicable to claim 15.

Regarding **claim 16**, claim 4 cites identical features as in claim 16. Thus, references/arguments equivalent to those presented above for claim 4 are equally applicable to claim 16.

Regarding **claim 17**, claim 5 cites identical features as in claim 17. Thus, references/arguments equivalent to those presented above for claim 5 are equally applicable to claim 17.

Regarding **claim 18**, claim 6 cites identical features as in claim 18. Thus, references/arguments equivalent to those presented above for claim 6 are equally applicable to claim 18.

Regarding **claim 19**, claim 7 cites identical features as in claim 19. Thus, references/arguments equivalent to those presented above for claim 7 are equally applicable to claim 19.

Regarding **claim 22**, claim 10 cites identical features as in claim 22. Thus, references/arguments equivalent to those presented above for claim 10 are equally applicable to claim 22.

Allowable Subject Matter

[16] **Claims 8-9, 20-21, and 23** would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. § 112, 2nd paragraph and claim objections set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Reasons for Indicating Allowable Subject Matter

[17] The following is a statement of reasons for the indication of allowable subject matter:

Regarding **claim 8**, while the prior art of record discloses the method of claim 7, the prior art of record does not teach the search frame generation means, search frame specification means and wherein the comparison reference setting means changes the comparison reference set in the position information comparison means in accordance with the size, position, and shape of the search frame. Claim 20 allowable by analogy.

Regarding **claim 9**, while the prior art of record discloses the method of claim 7, the prior art of record does not teach wherein when the image data corresponding to the result of the comparison is within a display area of the reproduction data, the superimposition means superimposes at least one of a numeral, a character, an icon and a symbol in a corresponding position within the display area, and causes the display means to display it. Claim 21 allowable by analogy.

Regarding **claim 11**, while the prior art of record discloses the method of claim 6, the prior art of record does not teach wherein the comparison reference setting means changes the

comparison reference in accordance with the zoom magnification or the zoom position. Claim 23 allowable by analogy.

Conclusion

[18] Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID P. RASHID whose telephone number is (571)270-1578 and fax number (571)270-2578. The examiner can normally be reached Monday - Friday 7:30 - 17:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Rashid/
Examiner, Art Unit 2624

/Bhavesh M Mehta/
Supervisory Patent Examiner, Art Unit 2624

David P Rashid
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